

JUDICIAL BRANCH AGENCIES

Appellate Defender Commission

The Appellate Defender Commission, a 7-member body created by Act 620 of 1978, is required to provide a statewide system of indigent appellate defense services that includes the services of both the State Appellate Defender Office (SADO) and the Michigan Appellate Assigned Counsel System (MAACS).

State Appellate Defender Office

The State Appellate Defender Office was established in 1970 pursuant to Michigan Supreme Court Administrative Order 1970-1 to provide competent legal representation of indigent criminal defendants in post-conviction matters. The office currently operates pursuant to Act 620 of 1978, which superseded Administrative Order 1970-1, and is governed by the 7-member Appellate Defender Commission.

Except in unusual situations, SADO is appointed to cases by Michigan's trial courts to represent indigent defendants on felony appeals and in a variety of other post-conviction proceedings. Infrequently, the Michigan Supreme Court or the Michigan Court of Appeals will direct lower courts to appoint SADO. The office also publishes a variety of books, newsletters, provides access to its brief bank and phone assistance to assist appointed counsel at trial and appeal to improve the quality and reduce the costs of appointed counsel to the counties and state. All this is now maintained in a website, www.SADO.org. The principal office is located in Detroit and the organization is directed by James R. Neuhard.

Michigan Appellate Assigned Counsel System

Assigned private counsel handle 75% of all indigent felony appeals in Michigan. Until the advent of MAACS, there existed no uniform statewide method of qualifying and selecting those attorneys. Each jurisdiction had its own method of appointing appellate counsel and of paying them from county funds. The result was wide disparity in the quality of representation provided.

Act 620 of 1978 requires the commission to compile and keep current a statewide roster of attorneys eligible for, and willing to accept, appointment as criminal appellate defense counsel and to provide continuing legal education for those attorneys. MAACS is the administrative office which screens the qualifications of attorneys seeking to join the statewide roster, compiles local lists of roster attorneys willing to accept appointments in circuit court, provides training programs and resource materials to roster attorneys, and monitors compliance with the Minimum Standards for Indigent Criminal Appellate Defense Services.

Pursuant to its statutory mandate to develop a comprehensive service delivery system, the commission has adopted regulations designed to insure that appellate assignments are fairly distributed among qualified lawyers and that assigned private counsel remain professionally independent. MAACS monitors the process by which appellate counsel are selected in each jurisdiction, the distribution of cases among private counsel, and the allocation of cases between private counsel and SADO. MAACS also provides training programs and other reference materials to the attorneys on its roster.



Attorney Discipline Board

The Michigan Attorney Discipline Board was created by the Michigan Supreme Court, effective October 1, 1978, as the adjudicative arm of the supreme court for the discharge of the court's constitutional responsibility to supervise and discipline Michigan attorneys.

The Attorney Discipline Board consists of 9 members who serve without compensation and who are appointed by the supreme court as follows: 6 lawyers and 3 public members (nonlawyers), each of whom may serve no more than 2 3-year terms.

The role of the board in disciplinary proceedings begins after a grievance has been investigated by the grievance administrator and approved by the Attorney Grievance Commission for the filing of a formal complaint with the board. Grievances against attorneys are confidential during the investigation stage; however, the formal complaint, pleadings, hearing transcript, and orders are a matter of public record. All hearings conducted by the Attorney Discipline Board and its hearing panels are open to the public.

Most panel and appeal hearings before the Attorney Discipline Board are conducted in the board's hearing room at its offices in Detroit. Approximately one-third of the hearings are conducted by hearing panels at other locations in the state. As appointees of the Attorney Discipline Board, approximately 500 Michigan attorneys serve as volunteers on the three-member panels, which act as the trial level of the board's proceedings. The board may also refer a matter for examination by a special master when a complaint involves specialized questions of fact or is of such complexity or volume that it requires prolonged hearing time or expedited attention.

A trial before a hearing panel is governed by the Michigan Court Rules applicable to a civil matter tried without a jury and by the Michigan Rules of Evidence. Special procedural rules apply in cases based upon an attorney's conviction of a crime or an adjudication of professional misconduct in another jurisdiction. In all other disciplinary proceedings, professional misconduct must be established by a preponderance of the evidence. If misconduct is established, the hearing panel must conduct a separate hearing to determine the appropriate level of discipline. A hearing panel may enter orders of probation, reprimand, suspension for a stated period of time (minimum — 30 days) or revocation of license (commonly referred to as disbarment). A hearing panel is empowered to order restitution to the attorney's client(s) and must order reimbursement to the State Bar of Michigan of the expenses of the hearing. A separate court rule governs proceedings before a hearing panel based upon a complaint by the grievance administrator to place an attorney on inactive status because of mental or physical incapacity.

A hearing panel's order to dismiss a complaint or to impose discipline becomes a final order unless appealed to the Attorney Discipline Board. Appeals from hearing panel decisions are heard by the full board as a matter of right and are based upon the record before the panel. Appeals from a decision by the board may be pursued only by leave of the Michigan Supreme Court. Appeals may be filed by the grievance administrator, the respondent/attorney, or the original complainant(s).

Attorneys who are found to be physically or mentally unable to continue in the practice of law may be placed on inactive status for an indefinite period; disciplinary complaints against such individuals are held in abeyance during the period of incapacity.

Attorneys suspended for 179 days or less may be automatically reinstated upon the filing of an affidavit of compliance with the order of discipline. In cases of suspension for 180 days or more, the attorney must file a petition for reinstatement which is followed by a new investigation and establishment by the respondent/attorney of his or her fitness to reenter the practice of law. Attorneys suspended for three years or more must, in addition to reinstatement proceedings, undergo examination and recertification by the State Board of Law Examiners. In Michigan, an attorney whose license has been revoked may petition for reinstatement after five years. The office of the board is located in Suite 1410, 211 W. Fort St., Detroit, MI 48226. John F. Van Bolt, Executive Director.

Further information about the board, including board opinions, notices of discipline and the most recent annual reports may be obtained at the board's website: www.adbmich.org.

Attorney Grievance Commission

The Michigan Attorney Grievance Commission was created by the Michigan Supreme Court, effective October 1, 1978. Along with the simultaneously created Attorney Discipline Board, the commission succeeded the former State Bar Grievance Board. Pursuant to MCR 9.108(A), the commission is the prosecutorial arm of the supreme court for the discharge of its constitutional responsibility to supervise and discipline Michigan attorneys.

The Attorney Grievance Commission has nine members. Three members are lay persons and 6 are attorneys, appointed by the supreme court.

Pursuant to MCR 9.108(E)(1), the commission has the power and duty to recommend attorneys to the supreme court for appointment as grievance administrator and deputy grievance administrator. The grievance administrator serves as executive director and chief prosecutor.

Sub-chapter 9.100 of the Michigan Court Rules governs attorney disciplinary proceedings.

Grievances filed against attorneys are denominated "requests for investigation." Any person may file a request for investigation with the grievance administrator and the grievance administrator may file his or her own request for investigation, where necessary. The filing of a request for investigation is normally the first step in the grievance process.

Following the filing of a request for investigation, the grievance administrator must determine whether a prima facie allegation of professional misconduct, i.e., a violation of Michigan Court Rule 9.104, exists. The grievance administrator may reject the request for investigation on its face or after a preliminary investigation, or he or she may conduct a full investigation. If the grievance

administrator does not reject the request for investigation, he or she will, upon conclusion of the investigation, recommend to the commission that (1) the matter be closed as there is not evidence of professional misconduct sufficient to sustain the burden of proof at a disciplinary proceeding, or (2) the commission admonish the respondent attorney pursuant to MCR 9.106(6) (this does not constitute discipline), or (3) authorization be granted for the issuance of a formal complaint.

Upon being authorized to file a formal complaint by the commission, the grievance administrator causes a complaint to be prepared and filed with the Attorney Discipline Board. The only exception to this is in the case of criminal convictions, where an order is issued by the board commanding the respondent to show cause why discipline should not be imposed.

Public hearings on charges of misconduct are held before 3-lawyer hearing panels of the Attorney Discipline Board. In the case of a formal complaint, the grievance administrator is required to prove his or her case by a preponderance of the evidence. Upon conclusion of the hearing, if the panel finds that the grievance administrator has failed to prove misconduct alleged in the formal complaint by a preponderance of the evidence, the charge against the respondent must be dismissed. If the panel concludes that misconduct has been proven by a preponderance of the evidence, the panel must enter an order of discipline, which may consist of a reprimand, probation, suspension, or disbarment. The panel may also require that the respondent make restitution to an aggrieved party.

Any party, including the complainant who filed the request for investigation, may appeal an order of a hearing panel, as a matter of right, to the Attorney Discipline Board, and may seek leave to appeal to the Michigan Supreme Court from an order of the Attorney Discipline Board. The office of the commission is located in Suite 256, 243 W. Congress, Detroit, MI 48226. Robert L. Agacinski, Grievance Administrator.



Judicial Tenure Commission

Michigan's Judicial Tenure Commission was established in 1968 when voters approved H.J.R. PP, which added Sec. 30 to Article VI of the Michigan Constitution of 1963. The commission serves to promote the integrity of the judicial process and preserve public confidence in the courts by holding judges accountable for their misconduct without jeopardizing or compromising the essential independence of the judiciary. The basis for commission action is a violation of the Code of Judicial Conduct or the Rules of Professional Responsibility. The code is published with the Michigan Court Rules.

On recommendation of the Judicial Tenure Commission, the Michigan Supreme Court may censure, suspend with or without salary, retire, or remove a judge for conviction of a felony, physical or mental disability that prevents the performance of judicial duties, misconduct in office, persistent failure to perform duties, habitual intemperance, or conduct that is clearly prejudicial to the administration of justice. The office is located at Cadillac Place, 3034 W. Grand Blvd., Detroit, MI 48202. Paul J. Fischer, Executive Director. For more information, see www.jtc.courts.mi.gov.



State Board of Law Examiners

The State Board of Law Examiners, constituted by Act 236 of 1961, consists of five active members of the bar, each of whom holds office for five years and one of whom is appointed by the governor on nomination by the supreme court on the first day of July each year.

The board has charge of the investigation and examination of all persons who initially apply for admission to the bar of this state.

The board offices are located at 4th Floor, Hall of Justice, P.O. Box 30104, Lansing, MI 48909. Timothy J. Raubinger, Assistant Secretary.



STATE COURT ADMINISTRATIVE OFFICE

According to the Michigan Constitution, Article VI, Section 3, “. . . the supreme court shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.” Under the general direction of the Supreme Court, the State Court Administrative Office (SCAO) is responsible for assisting in the administration of justice in Michigan’s trial courts. The state court administrator is also responsible for advising the Supreme Court, as well as the executive and legislative branches, on matters relating to the management of Michigan’s One Court of Justice. For more information on SCAO, go to www.courts.michigan.gov/scao.

The **State Court Administrative Office (SCAO)** provides management assistance and oversight to chief judges and judges of 244 trial courts and their trial court staff on matters relating to trial court management. SCAO collects, analyzes, and publishes management information regarding operations of trial courts. This information is used by the Supreme Court and state court administrator in evaluating the performance of Michigan courts and making decisions regarding their operations. The office provides analyses of legislative and executive branch policy initiatives in terms of their administrative impact on the judiciary. SCAO also assists in the evaluation of court rules and legislation affecting administration of courts, proposes changes to rules and statutes where appropriate, and advises the Supreme Court on administrative matters.

SCAO is comprised of six divisions: Trial Court Services, Child Welfare Services, Office of Dispute Resolution, Judicial Information Systems, Michigan Judicial Institute, and Regional Administration. Each division has a director who is responsible for oversight, coordination, improvement efforts and overall management of each of their respective divisions. Each division director reports directly to the state court administrator.

Trial Court Services is responsible for providing management assistance to courts: administering, participating in, and providing support to a variety of court improvement projects; developing and implementing policies and procedures; conducting legislative and policy analyses; providing standards for trial court operations; serving as liaison to court management organizations and executive and legislative branch agencies; and producing various publications, procedural manuals, and standard court forms for use in everyday operations within the courts. Trial Court Services’ Friend of the Court Bureau offers policy and operational support to Family Division judges and Friend of the Court offices, including recommending procedures and guidelines for child support, custody, and parenting time cases. Trial Court Services also provides staff support to the Court Reporting and Recording Board of Review, which establishes criteria and administers tests for certification of court reporters and recorders, and the Court Interpreter Certification Program. Special projects include the Drug Treatment Court Grant Program and Trial Court Collections.

Child Welfare Services (CWS) serves as Michigan courts’ central resource for child protection, foster care, and adoption issues. The division has two major units: the Court Improvement Program and the Foster Care Review Board. CWS offers training and oversight for a variety of federally funded court improvement projects, location of children who are absent from court-ordered placement without legal permission, and management assistance and guidance to family division courts in the areas of child protective proceedings. The *Foster Care Review Board* (FCRB), established by 1984 PA 422, oversees the work of 30 local citizen review boards throughout the state. The local boards review selected foster care cases, evaluate plans for the permanent placement of these children, and make recommendations to the courts, the Michigan Department of Human Services, and provide child placement agencies. The FCRB Program provides training for local boards and collects case data to measure performance, recommend system changes, and otherwise improve services to children in foster care.

The **Office of Dispute Resolution** is responsible for developing dispute resolution practices and protocols for the trial courts, providing technical assistance to the trial courts, implementing dispute resolution practices mandated or permitted by court rule or statute, evaluating dispute resolution systems, and providing recommendations to the state court administrator for improving dispute resolution services for Michigan citizens.

The office also provides project administration, oversight, and evaluation of the Community Dispute Resolution Program. Created by Public Act 260 of 1988, this program also provides financial support to non-profit organizations that in turn provide free or low-cost mediation in a wide variety of disputes as an alternative to the traditional adversarial court process.

The office serves as liaison to dispute resolution service providers, academic programs, associations, courts, and other agencies and organizations having special focus on dispute resolution research, services, and evaluation.

The **Judicial Information Systems (JIS) Division**, with offices in Lansing and Detroit, is responsible for developing and maintaining office automation applications for the Michigan Supreme Court and to subscribers of its trial court applications. JIS currently provides ongoing support and training on use of applications to more than 235 judicial branch staff, 92 district/municipal courts, 43 circuit courts, 72 juvenile divisions of circuit court, 69 probate courts, and 62 locations with jury management software. JIS advises and assists trial courts in the selection, acquisition, installation, programming, and operation of automated data processing systems. The division coordinates with other state agencies in the development, support, accumulation, and submission of court-related data to state repositories. JIS also participates in other Supreme Court initiatives where technological advances may contribute to the overall objective of that initiative. These initiatives include trial court connectivity, improving electronic submission of data to state agencies, web-enabled applications for court payments, data warehousing, and the next generation of case management software for the state's trial courts.

The **Michigan Judicial Institute (MJJI)** was developed by the Michigan Supreme Court in 1977 to provide judges and court personnel with opportunities to develop and enhance professional skills. Continuing judicial branch education is provided in many formats including live seminars; publications (e.g., judicial benchbooks, monographs, manuals); distance learning opportunities (e.g., video conferencing, webcast seminars, compact disc interactive and CD-rom programs, web-based training — www.courts.michigan.gov/mji); a resource library, including materials from the State Justice Institute, American Bar Association, American Judicature Society, National Association of State Judicial Educators, National Association for Court Management; and MJJI-sponsored programs. MJJI is also responsible for the Supreme Court Learning Center, located in the Hall of Justice, designed to educate the public on the Michigan court system — www.courts.michigan.gov/plc/index.htm. Finally, MJJI hosts a variety of international delegations of judges and court personnel seeking to learn about our methods of judicial branch education.

Regional Administration is comprised of four regional offices that provide direct services to the courts and serve as links between the Supreme Court and the local trial courts. Each regional office provides management assistance to trial court chief judges and staff in the administration of judicial business. They implement Supreme Court judicial administration policy, monitor workload and caseload, and serve as a primary contact for local funding units and other local justice system stakeholders regarding judicial operations. Regional administrators and their staff visit courts in their respective regions and meet with judges, court staff, county commissioners, other local officials, attorneys, and litigants. In addition, the regional offices issue judicial assignments authorizing judges to serve in courts outside of their jurisdiction when necessary.

The *Region I State Court Administrative Office* is located in Detroit and serves the trial courts in Genesee, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties. The *Region II State Court Administrative Office* is located in Lansing and serves the trial courts in Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Hillsdale, Ingham, Jackson, Kalamazoo, Kent, Lenawee, Livingston, Muskegon, Ottawa, St. Joseph, and Van Buren Counties. The *Region III State Court Administrative Office* is located in Mt. Pleasant and serves the trial courts in Alcona, Arenac, Bay, Clare, Clinton, Gladwin, Gratiot, Huron, Ionia, Iosco, Isabella, Lake, Lapeer, Mason, Mecosta, Midland, Montcalm, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Roscommon, Saginaw, Sanilac, Shiawassee, and Tuscola Counties. The *Region IV State Court Administrative Office* is located in Gaylord and serves the trial courts in Alger, Alpena, Antrim, Baraga, Benzie, Charlevoix, Cheboygan, Chippewa, Crawford, Delta, Dickinson, Emmet, Gogebic, Grand Traverse, Houghton, Iron, Kalkaska, Keweenaw, Leelanau, Luce, Mackinac, Manistee, Marquette, Menominee, Missaukee, Montmorency, Ontonagon, Otsego, Presque Isle, Schoolcraft, and Wexford Counties.



